



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

November 23, 1993

**Mr. Peter Stone
Executive Director
4301 Westbank Drive
Board of Tax Professional Examiners
Building B, Suite 140
Austin, Texas 78746-6565**

Letter Opinion No. 93-101

**Re: Use of classification titles by the Board
of Tax Professional Examiners under V.T.C.S.
article 8885 (ID# 18315)**

Dear Mr. Smith:

Your predecessor requested an opinion from this office concerning whether the Board of Tax Professional Examiners (the "board") must issue identification cards to certain persons who were certified as Registered Professional Assessors prior to September 1, 1983, indicating that they are both Registered Texas Assessors/Collectors and Registered Professional Appraisers, although such persons do not now work in both these areas of specialization.

In our view, under the authority granted the board by V.T.C.S. article 8885, the Property Taxation Professional Certification Act, ("the act") and pursuant to the rules which the Board of Tax Professional Examiners have adopted pursuant to the act, the board need not issue such dual licenses to persons not engaged in both fields of specialization.

Until 1983, the Board of Tax Assessor Examiners, the predecessor to the present board, issued only a single sort of certification, that of Registered Professional Assessor. However, article 8885 establishes the basis for a three-part classification scheme and gives the board the power to carry out this scheme. Section 2 of article 8885 defines "registered professional appraiser," "registered Texas assessor," and "registered Texas collector"--essentially the terms now used by the board in its classification system. Section 7 grants the board general rule-making authority. Section 16 confers on the board the authority, by rule, to set up a classification system. Section 17 describes the requirements for certification.

Pursuant to its rule-making authority, the board has established three certification titles--Registered Professional Appraiser, Registered Texas Assessor/Collector, and Registered Texas Collector. 22 T.A.C. § 623.5. These classifications are based on field of work and on experience, education and examination. Registrants are certified in the field, or fields, in which they have duties or responsibilities. 22 T.A.C. § 623.7. Accordingly a registrant, by rule, must be classified in the area in which he now works,

rather than in an area in which he may once have worked. This regulatory scheme is presumptively valid. *See* 2 TEX. JUR. 3d *Administrative Law* § 85 (1979.)

Your predecessor asked further whether a person may hold himself out to the public as certified in a particular area of specialization in which he is not registered. We conclude that a person may not so represent himself. As we have already noted, article 8885 gives the board general rule-making authority in this area. *See* 2 TEX. JUR. *supra* (administrative rules presumptively valid). Pursuant to that authority, the board promulgated 22 T.A.C. § 628.7, which became effective November 8, 1991:

A person registered with the board or a former registrant:

(1) Shall not use the titles Registered Professional Appraiser (RPA), Registered Texas Assessor/Collector (RTA), or Registered Texas Collector (RTC) unless he is an active registrant with the Board of Tax Professional Examiners and has been certified by that board, and shall use those titles only in connection with the performance of official duties as a property tax appraiser, assessor/collector, or collector.

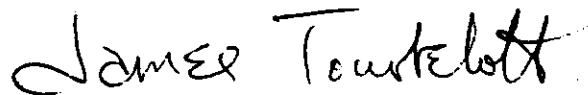
Any form of advertising or holding oneself out to the public as possessing a registration status not properly possessed would therefore violate the board's duly promulgated rule.

Your predecessor did not ask about, and we do not address, any issue of purported constitutional vested rights with respect to a particular title. We note further that the issue of the kind of work in which any particular individual is now engaged is a fact question which cannot be addressed in the opinions process.

S U M M A R Y

The Board of Tax Professional Examiners has statutory authority under V.T.C.S. article 8885 to make classifications of tax appraisers, assessors, and collectors, and rule-making authority under the statute to forbid persons not so classified from holding themselves out under titles not properly possessed.

Yours very truly,



James Tourtelott
Assistant Attorney General
Opinion Committee